

ORDINANCE NO. 10-2022

BY: Baker, Bullock, Kepple, Litten,  
O'Malley, Rader, Shachner

AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least two thirds of the members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, authorizing and directing the Mayor to enter into an amendment to the concession lease agreement with HELP Foundation, Inc. for the operation of food concessions at Lakewood Park, pursuant to Section 155.08 of the Codified Ordinances.

WHEREAS, the City is the owner of real property located in Lakewood, Ohio, known as Lakewood Park; and

WHEREAS, HELP Foundation, Inc., whose predecessor in interest, Cornucopia, Inc., previously operated Nature's Bin and continues to operate a prepared food commissary and training center on Sloane Avenue, is a Cleveland- and Lakewood-based nonprofit organization with the special mission of providing work adjustment training for people with disabilities including developmental disabilities, mental illness, autism, visual and hearing impairment, and injuries resulting from accident or illness; and

WHEREAS, Cornucopia, Inc., served as the city's concessionaire at Lakewood Park during the 2017-2021 seasons with success and without controversy; and

WHEREAS, the City has determined that continuing to make available food concessions at Lakewood Park offered by this local, longstanding non-profit corporation is in the best interests of the City and will further the interests of the City and its residents; and

WHEREAS, as set forth in Section 2.12 of the Third Amended Charter of the City of Lakewood, this Council by a vote of at least two thirds of its members determines that this ordinance is an emergency measure and that it shall take effect immediately, and that it is necessary for the immediate preservation of the public property, health, and safety and to provide for the usual daily operation of municipal departments, in that the beginning of the 2022 park season is upon us; now, therefore,

BE IT ORDAINED BY THE CITY OF LAKEWOOD, OHIO:

Section 1. The Mayor is hereby authorized and directed, on behalf of the City, to enter into an amendment to the concession lease agreement with HELP Foundation, Inc. for the operation of food concessions at Lakewood Park, pursuant to Section 155.08 of the Codified Ordinances, the amendment to be on terms approved by the Director of Law and in substantially the same form as the document attached as Exhibit A.

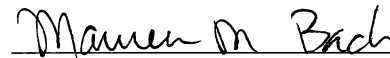
Section 2. To the extent HELP Foundation, Inc.'s provision of services or other operation under the concession lease agreement conflicts with other established municipal rules and ordinances related to the presence of persons or the operation of food service in Lakewood Park, the concession lease agreement shall control over those rules and ordinances.

Section 3. It is found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were adopted in an open meeting of this Council, and that all such deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

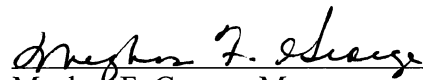
Section 4. This ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare in the City and for the usual daily operation of the City for the reasons set forth and defined in the preamble to this ordinance, and provided it receives the affirmative vote of at least two thirds of the members of Council, this ordinance shall take effect and be in force immediately upon its adoption by the Council and approval by the Mayor, or otherwise it shall take effect and be in force after the earliest period allowed by law.

Adopted: 3/21/22

  
Daniel J. O'Malley, Council President

  
Maureen M. Bach, Council Clerk

Approved 3/24/22

  
Meghan F. George, Mayor

**Exhibit A**

Amendment to Concession Lease Agreement

(See following pages)

## **AMENDMENT TO CONCESSION LEASE AND PERMIT**

THIS AMENDMENT TO CONCESSION LEASE AND PERMIT ("Amendment") is made between the City of Lakewood, Ohio, as lessor ("lessor" or "the City"), and HELP Foundation, Inc., an Ohio non-profit corporation, as lessee ("lessee") on the date appearing below.

WHEREAS, lessor and lessee wish to extend the term of the original Concession Lease and Permit ("Original Agreement"), which expires April 30, 2022, for another year, maintaining all other aspects of the Original Agreement; now, therefore,

1. **AMENDED TERMS.** The Original Agreement is hereby amended in relevant part to read as follows:

2. **TERM.** The term of this lease shall begin on May 1, 2022 and end on April 30, 2023 and may be renewable on such terms as are approved by the parties.

...

17. **CANCELLATION.**

(A) Termination by the City. In addition to any other right of cancellation under this lease, the City may terminate this lease if any of the following occur:

(1) In the event the Public Health Emergency due to COVID-19 and/or any related Health risk is in existence as deemed by the State of Ohio, or local Public Health agencies that would prevent its opening as a public health risk.

...

(3) Lessee voluntarily abandons operations at the leased premises for a continuous period of ten days between September 1, 2022 and the termination of the ~~original~~ term of this lease;

...

2. **DEFINED TERMS.** Unless specifically defined herein, all capitalized terms used in this Amendment shall have the meaning assigned to them in the Original Agreement.

3. **CONFLICTS.** In the event of a conflict between the provisions of this Amendment and the provisions of the Original Agreement, the provisions of this Amendment shall control.

4. **RATIFICATION.** Except as expressly amended or modified herein, all of the terms, covenants and conditions of the Original Agreement shall remain unchanged and in full force and effect; and the Original Agreement, as herein amended and modified, is hereby ratified and confirmed.

5. **COUNTERPARTS.** This First Amendment may be executed in multiple counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same document.

WITNESS the signatures of the parties this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

Attest:

**CITY OF LAKEWOOD, OHIO**, as lessor

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Meghan F. George, Mayor

**HELP FOUNDATION, INC.**, as lessee

\_\_\_\_\_  
Witness

\_\_\_\_\_  
\_\_\_\_\_, President and CEO

Approved as to legal form and correctness:

\_\_\_\_\_  
Chief Assistant Director of Law